

October 2, 2019

Mr. Zacharia Fisch
Exploration Research, Inc.
6339 Howard Lane
Elkridge, Maryland 21075

Re: BGE Northeast Substation
Forest Conservation Variance
FC 06-19-3083

Dear Mr. Fisch:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on September 11, 2019. This request proposes to remove four specimen trees for the construction of three new transmission structures outside of the substation fence and to provide electric transmission wire clearance zones between the structures. The work is part of a larger upgrade to the substation. All four trees are *Liriodendron tulipifera* and are in the forest buffer along the stream and wetland area to the south of the substation. There are 4 specimen trees in the survey area.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The substation is existing and the new transmission structures and lines are necessary to provide reliable service to the public. FERC/NERC requirements dictate wire zone clearances, and the location of an underground gas pipeline and existing stormwater drainage system further constrain location of new towers. Full application of

the law to the entire property would not result in unwarranted hardship to the applicant, and we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The site is currently an operating substation. The specimen trees are within the Forest Buffer adjacent to the substation facility. There are residential uses and a State highway that surround the property and therefore the circumstances here are unique and not related to the conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property has been in use as a substation, and the proposed work will upgrade the existing infrastructure to ensure reliable service to the community. The property is surrounded by a forested stream valley, a State highway, and residential development. The removal of the specimen trees will not change the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. All sediment and erosion control techniques will be met during and after construction. Vegetation within the transmission line right-of-way will be permitted to grow in accordance with accepted practices. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not started construction and is seeking all permits and approvals. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing upgrades to an existing substation is consistent. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent with the following conditions:

1. Add the following note to all plans for this project: "A Forest Conservation Special Variance was approved by the Baltimore County Department of

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Environmental Protection and Sustainability to allow the removal of four specimen trees.”

This variance approval does not exempt future development of this site from complying with Baltimore County’s Forest Conservation Law. It is the intent of this Department to approve this variance. Any changes to site layout may require submittal of revised plans and an amended variance request.

If you have any questions regarding this correspondence, please call Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

c: Marian Honeczy